IN THE HIGH COURT OF BOMBAY AT GOA

APPEALS FROM ORDER NO. 93/07 & 94/07

APPEAL FROM ORDER NO. 93/07

1. Shri Suhas Govind Lotlikar,
2. Mrs. Jaya Suhas Lotlikar,

Both r/o. 503, 505, 2nd floor,
Lotlikar Building, Chira Bazaar,
J.S. S. Road, Mumbai – 2. ..... Appellants.

V/s.

1. Smt. Anjali Narahari Raikar and
her husband

2. Dr. Narahari Vinayak Raikar,
a) Manisha N. Vernekar,
b) Sonal P. Lotlikar,
c) Praveen Lotlikar,
both residing at Sanchayani Ananta,
Vishwas Building, Flat No.3,
Vidyanagar, Margao, Goa.
d) Teja V. Raikar,
e) Vivek Walke,
both residing at H.No.388,
Umra Vaddo, Salvador do Mundo,
Bardez, Goa.
f) Kedar Narahari Raikar,
r/a. Pundolik Nagar, Alto Betim,
Bardez, Goa.
g) Miss Avani Vernekar
daughter of late Narayandas K. Vernekar,
through her mother Manisha N. Vernekar,
Sanchayani Ananta, Vishwas Building,
Flat No.3, Vidyanagar, Margao, Goa.
h) Mrs. Trupti K. Raikar,
resident of Pundalik Nagar,
Porvorim, Goa.

3. Smt. Seema Raya Karekar,
and her husband,

4. Shri Raya Padmanabh Karekar,
both r/o. A/3, Adarsh Colony,
Caranzalem, Goa 403 002.

5. Suresh Govind Lotlikar,
r/o. 503, 505, 2nd floor,
Lotlikar Building, Chira Bazaar,
J.S. S. Road, Mumbai – 2. ..... Respondents.

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. V. Korgaonkar, Advocate for the appellants.

Mr. M. B. D'Costa, Senior Advocate with Mr. J. A. Lobo, Advocate for the respondents No.1 and 5.

Mr. S. R. Rivonkar, Advocate for LRs. of respondent No.2 and respondents no.3 and 4.

APPEAL FROM ORDER NO. 94/07

Shri Anil G. Lotlikar,
major of age, resident of
12/A, Pajifond, Margao, Goa. ..... Appellant.

V/s

1) Suresh Govind Lotlikar,
r/o. Lotlikar Building,
4th Floor, 503, Chira Bazaar,
Mumbai – 2.

2) Smt. Anjali Narahari Raikar and
her husband

3) Dr. Narahari Vinayak Raikar,
a) Manisha N. Vernekar,
b) Ms. Avani Vernekar (through her
legal guardian Mrs. M. A. Vernekar)
Both r/o. Pundalik Nagar,
Porvorim, Goa.
c) Praveen Lotlikar,
d) Mrs. Sonal P. Lotlikar,
both residing at Gogol, Margao, Goa.
e) Vivek Walke,
f) Mrs. Teja V. Walke,
both r/o. Britona,
Bardez, Goa.

g) Dr. Kedar Narahari Raikar,
h) Mrs. Trupti K. Raikar,
Both r/o. Pundalik Nagar,
Porvorim, Bardez, Goa.

4. Smt. Seema Raya Karekar,
and her husband,

5. Shri Raya Padmanabh Karekar,
both r/o. A/3, Adarsh Colony,
Caranzalem, Goa 403 002.

6. Suhas G. Lotlikar,
7. Jaya S. Lotlikar,
Both r/o. 503, 505, 2nd floor,
Lotlikar Building, Chira Bazaar,
J.S. S. Road, Mumbai – 2. ..... Respondents.

Mr. S. D. Lotlikar, Senior Advocate with Mr. R. Menezes and Mr. M. D'Souza, Advocates for the appellants.

Mr. M. B. D'Costa, Senior Advocate with Mr. J. A. Lobo, Advocate for the respondents No.1 and 2.

Mr. S. R. Rivonkar, Advocate for LRs. of respondent No.3 and respondents no.4 and 5.

CORAM : F.I. REBELLO, J.

DATE : NOVEMBER 21, 2007.

ORAL JUDGMENT :

Admit. By consent head forthwith.

2. The appellant Suhas Lotlikar in Appeal from Order No.93/07 had filed objections to delist certain properties from the inventory proceedings by his

application dated 3.3.2004.

The appellant Anil Lotlikar in Appeal from Order No.94/07 had made an application dated 12.4.02 wherein he has challenged the valuation done by the valuer and in the body of the application also mentioned certain items to be deleted.

3. The learned trial Court, by the impugned Order of 2.5.05, was pleased to consider the objections filed by Smt. Satyawati Govind Lotlikar, the widow and the two appellants along with their wives, in so far as valuation report is concerned and rejected the same.

The grievance of the appellants is that the learned trial Judge did not address himself at all to the issues pertaining to delisting of the items as set out in their respective applications. On the other hand, on behalf of the contesting respondents, the learned Counsel points out that the list had already been filed in the Court. A conjoint reading of Article 1379 and Article 1383 of the Portuguese Civil Procedure Code, would disclose that the said applications were not maintainable. This issue also has not been gone into by the learned Judge, as the issue of delisting would also have a bearing on valuation. Those findings are also being set aside for de novo consideration.

4. Considering the above, the impugned order is set aside. The matter is remanded to the Civil Judge, Sr. Division, Margao for rehearing the parties and the

applications and deciding the matter according to law. It is made clear that all objections of the appellants and the respondents are kept open for consideration before the trial Court including as to valuation. Considering that the matter has been pending for long time, the trial Court is directed to dispose of the same not later than 60 days from the copy of this order being produced before the Court. Parties to appear before the trial Court at 10.00 a.m. on 28.11.07.

F.I. REBELLO, J.

ssm.